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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,162	06/26/2001	Eric B. Remer	42390P10196	5197

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EXAMINER

BULLOCK JR, LEWIS ALEXANDER

ART UNIT PAPER NUMBER

2195

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/894,162	Applicant(s) REMER ET AL.	
	Examiner Lewis A. Bullock, Jr.	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The cited claims detail software instructions for allocating processing slots to multiple threads based on the thread priority. As proper under M.P.E.P. 2106, software instructions that are not executed on a tangible structure or embodiment is non-statutory. Therefore, the cited claims are non-statutory.

Claim Rejections - 35 USC § 112

2. Claims 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant claims the step of allocating a plurality of processing slots based on a priority of the multiple threads. However the specification at best teaches allocating processing slots based on a priority of the clients, **not the threads**. The examiner is requesting Applicant to either amend the claims to correct this distinction or show where in the specification support for the limitation is found.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by YUE (U.S. Patent 5,987,492).

As to claim 11, YUE teaches a method of processing multiple threads comprising: allocating a plurality of processing slots (slots) based on a priority of the multiple threads (assigning slots to processes that have threads) (col. 9, lines 65-67; col. 9, lines 2-10); assigning the multiple threads (threads) to the plurality of processing slots (available slots) (col. 9, lines 24-37); sending the multiple threads out for processing (via putting the threads on the dispatch queue) (col. 9, lines 49-54); and filling the plurality of processing slots with new threads (threads on the dispatch queue / thread at the head of ticket queue) (col. 9, lines 49-63; col. 10, lines 15-21).

5. Claims 1, 5, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by MONTPETIT (U.S. Patent 6,366,761).

As to claim 1, MONTPETIT teaches a method of processing work units (data packets) from client systems (ground terminals / satellite systems) comprising: allocating a plurality of processing slots based on respective priorities of the respective client systems (allocation of bandwidth to the ground terminals to send priority packets) (fig. 11B, step 230 or 218; col. 5, line 62 – col. 6, line 32; col. 7, lines 23-48); assigning work units (data packets) to the plurality of processing slots (slots) (col. 7, lines 23-48; col. 14, lines 22-26) and sending the work units (work units) to the client systems for processing (col. 14, line 56 – col. 15, line 7).

As to claim 5, MONTPETIT teaches the work units (data packet) comprise network data packets (col. 7, lines 24-40).

As to claim 14, reference is made to an article that corresponds to the method of claim 1 and is therefore met by the rejection of claim 1 above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4, 6, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over MONTPETIT (U.S. Patent 6,366,761).

As to claim 2, MONTPETIT teaches receiving a high priority of work unit (high priority data packet) from a first client (ground terminal); storing current work units of the first client; and processing the high priority work unit by assigning the high priority work unit to the plurality of processing slots (via preempting the lower priority bandwidth requests in the data packet for the higher priority bandwidth request) (col. 15, line 43 – col. 16, line 17; col. 16, line 46 – col. 17, line 14; col. 17, lines 23-30). MONTPETIT teaches storing the items in a send queue (col. 7, lines 24-40) and processing the data packets based on their priority (col. 16, lines 46- - col. 17, lines 14). MONTPETIT also teaches retaining bandwidth requests that were not satisfied but were in memory for further processing (col. 17, lines 23-30). However, MONTPETIT does not teach that the work unit is placed on a stack. Official Notice is taken in that it is well known in the art that stacks are memory structures for storing items, similar to queues. It would be obvious to one skilled in the art at the time of the invention to store the items, i.e. data packets, are stored on a stack or queue that implements last in, first out implementation, to determine the higher priority work unit (data packet) since a stack is a similar memory structure for storing items.

As to claim 3, MONTPETIT teaches allocating a predetermined number of processing slot to process high priority work units (via the bandwidth allocation request) (col. 15, line 43 – col. 16, line 17; col. 16, line 46 – col. 17, line 14; col. 17, lines 23-30; col. 13, line 42-52).

As to claim 4, MONTPETIT teaches the predetermined number of processing slots approximately corresponds to a predetermined portion of the plurality of processing slots (the processing slots are allocated as requested), and the plurality of processing slots varies based at least in part on availability of resources (processing slots are allocated based on availability and priority of data packet) (col. 15, lines 29 – col. 15, line 17; col. 13, line 42-52).

As to claim 6, MONTPETIT teaches allocating processing slots to receive work units, data packets, to be processed (col. 7, lines 23-48; col. 14, lines 22-26; col. 14, line 56 – col. 15, line 7) wherein the data packets have the same priority and stored data packets having a similar priority are executed first (col. 16, lines 46 – col. 17, line 14). However, MONTPETIT does not teach the reprioritizing of the message. It would be obvious that the message must be reprioritize since the plurality of work units, i.e. data packets, are transmitted together and having the same priority.

As to claims 15 and 16, reference is made to an article that corresponds to the method of claims 2 and 6 and is therefore met by the rejection of claims 2 and 6 above.

8. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over YUE (U.S. Patent 5,987,492).

As to claim 12, YUE teaches receiving a first thread (thread) having a high priority (high priority thread placed on ticket queue); pushing an older thread (placing

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thread back on ticket queue) (col. 9, lines 46-48) and allocating the first thread (high priority thread) to the plurality of processing slots (col. 10, lines 15-22; col. 9, lines 49-63). However, YUE does not teach that the thread is placed on a stack. Official Notice is taken in that it is well known in the art that stacks are memory structures for storing items. YUE teaches storing the items in a queue to determine the higher priority thread to execute from a currently executing thread. It would be obvious to one skilled in the art at the time of the invention to store the items are stored on a stack to determine the higher priority thread since a stack is a similar memory structure for storing items.

As to claim 13, YUE teaches popping the older thread (thread) when processing resources become available (an available processor slot and the thread has the highest priority) (col. 10, lines 15-22; col. 9, lines 49-63).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis A. Bullock, Jr. whose telephone number is (571) 272-3759. The examiner can normally be reached on Monday-Friday, 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 28, 2005



LEWIS A. BULLOCK, JR.
PRIMARY EXAMINER